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To restore certain radio stations to private...

Washington

1920

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TO RESTORE CERTAIN RADIO STATIONS TO PRIVATE OWNERSHIP AND OPERATION

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HEARINGS

BEFORE THE

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS
SECOND SESSION

ON

H. R. 11779

WEDNESDAY, JANUARY 21, 1920

WASHINGTON
GOVERNMENT PRINTING OFFICE
1920

Bennett

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS.

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FRANK D. SCOTT, Michigan.
WALLACE H. WHITE, JR., Maine.
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TO RESTORE CERTAIN RADIO STATIONS TO PRIVATE OWNERSHIP AND OPERATION.

SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
HOUSE OF REPRESENTATIVES,
Wednesday, January 21, 1920.

The subcommittee met at 10.30 o'clock a. m., Hon. Wallace H. White, jr., presiding.

(The bill before the committee is inserted herewith:)

H. R. 11779. A BILL To restore to private ownership and operation certain radio stations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all radio stations within the jurisdiction of the United States, taken over, controlled, and used by the President of the United States or by any person or any department of the Government thereof under his direction, under and by virtue of the authority of an act of Congress entitled "An act to regulate radio communication, approved August 13, 1912," or under any other authority of law, are hereby restored to the owners thereof.

SEC. 2. That all radio stations within the jurisdiction of the United States closed for radio communication or prevented from operation by the President or by any person or any department of the Government under his direction, under the authority of said act of Congress entitled "An act to regulate radio communication, approved August 13, 1912," or under any other authority of law, may be reopened and operated by the owners thereof.

SEC. 3. That the President be, and he hereby is, authorized and directed (a) to restore and deliver to the respective owners thereof the control and use of all stations and apparatus defined in section 1 of this act, and (b) to remove all restrictions against the use of all other stations defined in section 2 of this act closed or prevented from operation by him or by the Secretary of the Navy or other officer or employee of the Government under his direction, and to return and deliver to the owners thereof all apparatus removed therefrom. All stations and apparatus by this section and by the preceding sections directed to be returned and delivered to the owners thereof or permitted to be opened for operation shall be used and operated in accordance with the provisions of the act of Congress entitled "An act to regulate radio communication, approved August 13, 1912."

SEC. 4. That sections 1, 2, and 3 of this act shall not apply to stations and apparatus purchased by the Navy Department with moneys appropriated by Congress thereof and now owned by it.

SEC. 5. That the Secretary of the Navy is hereby authorized, under regulations and at rates prescribed by him, to use the stations and apparatus owned by the Navy Department and located on or near the Pacific coast, at or near Honolulu, Hawaii, at or near Cavite, Philippine Islands, or at other points in the Pacific Ocean, for the transmission and reception of commercial and press messages: *Provided,* That the rate fixed for the transmission of private commercial messages shall not be less than the rate charged by privately owned stations for like messages other than press messages: *Provided further,* That the right to use such stations and apparatus owned by the Navy Department for the transmission and reception of commercial and press messages shall cease and terminate whenever,

in the judgment of the Secretary of Commerce, privately owned and operated stations are capable of adequately meeting the normal communication requirements between the Pacific coast of the United States and the points hereinbefore mentioned. Stations and apparatus owned elsewhere by the Navy Department or any other department of the Government shall not be used for the transmission or reception of commercial, press, or other classes of private messages, except that the classes of stations hereinafter named may be operated by the Government for the purposes specified, that is to say:

(a) All land, ship, and airship stations owned by the Government may be used for transmitting and for receiving Government messages as distinguished from commercial and other messages at any wave length.

(b) All land stations owned by the Government may be used by it for transmitting and for receiving any messages to and from ships by short waves.

(c) All ship and airship stations owned by the Government on Government-owned ships or airships may be used by it for transmitting and for receiving Government messages and incidental commercial messages at any wave length.

(d) All land stations owned by the Government may be used by it for transmitting and for receiving, to or from ships by long waves, Government messages and incidental commercial messages.

SEC. 6. That this act shall take effect at midnight of the last day of the calendar month following the month in which the same is approved.

Mr. WHITE. Before we proceed to hear Capt. Bryant, I want to call to the attention of the committee two or three amendments I have in mind to offer at the proper time.

In the first place, on page 2, line 16, strike out all of section 3 after the period. That will be inserted in a little different form in a subsequent part of the bill.

On page 4, strike out all of subsections a, b, c, and d, and insert in lieu thereof the following:

(a) All land, ship, and airship stations owned by the Government may be used by it for transmitting and for receiving Government messages relating to the movement and safety of ships and airships and the persons and property thereon.

Another amendment, which I have numbered section 5½, reads as follows

All stations and apparatus herein directed to be returned and delivered to the owners thereof or permitted to be opened for operation and all stations owned and operated by the Navy Department or other department of the Government, shall be used and operated in accordance with the provisions of the act of Congress entitled "An act to regulate radio communication, approved August 13, 1912."

These are amendments that, when we come to consider the bill, I would like to have the subcommittee take up in connection with it.

Mr. CHINDBLOM. Is there any material change resulting from these amendments?

Mr. WHITE. I will tell you what they seek to do. The first amendment, as you notice, strikes out all of section 3 after the period in line 16. That simply comes out of that place and goes in in a new form as section 5½. The idea I had in making that change was to make certain that in times of peace, at least, there should be some control over the operations of stations by the Navy Department itself. Personally, I can not quite see how it would be possible for the Navy Department to be a free lance in times of peace, to be free from all rules and regulations as to the operation of its stations, and to have any sort of effective regulation over private stations; that is, the Navy Department, if it were not subject in the use of its stations to substantially the same control as is

exercised over commercial wireless stations, might be cutting across the currents and utterly disrupting and disorganizing any efforts to control private stations. Of course, that applies only to times of peace. In times of war or emergency, under the original act of 1912, all these stations may be taken over by the President and operated practically without any limitations.

That was my purpose in striking this language out and putting it in later, so that, in times of peace, the act of 1912, and any amendments we might make thereto, would apply to the naval stations to the same extent that they are applicable to private stations.

The second amendment, which strikes out all of subsections (a), (b), (c), and (d), substitute this language:

(a) All land, ship, and airship stations owned by the Government may be used by it for transmitting and for receiving Government messages and messages relating to the movement and safety of ships and airships and the persons and property thereon.

It seems to me that consolidates into one paragraph the authority for all proper radio activities of the Navy Department. I have personally reached the conclusion that the Navy Department ought not to be doing any commercial business, except as authorized in section 5 on the Pacific coast for the time being, and that we ought to confine the Navy Department to the ship-to-shore business and the airship business and governmental messages, and not to permit it to engage in commercial business. And that is what the amendment seeks to accomplish. I do not know whether it is in good form or not, but that was my idea.

Section 5½ embodies, as I have already indicated, the part of section 3 which is struck out, and specifically brings in, under the act of 1912, all Government stations, and subjects the Government stations in their operations to the regulations which are applicable to other people.

Very briefly, that is the purpose of these three amendments. They were drawn yesterday afternoon, and I have not submitted them to the subcommittee and therefore do not know that any one will approve of them.

Now, Capt. Bryant, we are ready to hear from you.

STATEMENT OF CAPT. S. W. BRYANT, UNITED STATES NAVY, ASSISTANT TO THE DIRECTOR OF NAVAL COMMUNICATION.

Capt. BRYANT. The amendments would change a little the remarks I had prepared. I will start in with section 5, as the first four sections of the bill, so far as I personally am concerned, appear to be a very good measure for taking care of the situation as it is at this time.

With regard to section 5, I believe that the provisions of this section, as they now stand, would prevent the general public from utilizing the Navy Department's radio communication facilities in the West Indian Islands and the Caribbean Sea. At present there are naval radio facilities established at certain points in these areas which are proving of considerable benefit to our commercial people.

The CHAIRMAN. By what authority were those stations established?

Capt. BRYANT. They were already established there as naval radio stations, Government stations, for the use of the fleet.

The CHAIRMAN. During the war?

Capt. BRYANT. Not all of them. The stations in Santo Domingo and Haiti were established since the war began; but the others were already there, sir.

The CHAIRMAN. How do you mean, "Already there"?

Capt. BRYANT. They had been established—the one at Guantanamo——

The CHAIRMAN. The Navy Department bought them?

Capt. BRYANT. We built them a number of years ago, sir, under the original plan. The one at the Guantanamo Naval Station was erected a number of years ago and the one at San Juan and Porto Rico were erected under the same conditions. The station in the Virgin Islands, that is, at Saint Thomas, which naval station is used for communication with those islands, Porto Rico and the United States——

Mr. CHINDBLOM. When was that erected on the Virgin Islands?

Capt. BRYANT (continuing). Was erected shortly after we took possession of the islands.

Mr. CHINDBLOM. Before the war?

Capt. BRYANT. That was before we entered the war; yes, sir. It is a small station; it is not a high-powered station at all.

The CHAIRMAN. Does this bill change the status of that station?

Capt. BRYANT. Yes, sir; we would not be able to handle commercial messages between those stations.

The CHAIRMAN. You should not, should you? Why should you handle commercial messages if there is anybody else to do the business? Why should the Navy Department absorb the business that ought to belong to private individuals? Let them take care of their own business and let other business alone; why should not that be done?

Capt. BRYANT. If there were other stations to do it, sir, it would be all right; but there are no other stations there to take care of that business now.

The CHAIRMAN. Suppose a company were to put up a station there, would you claim, by reason of your location, that you had preempted the right?

Capt. BRYANT. No, sir. When private stations are established there, I see no reason why they should not take it up; but the way we look at it, we feel we should handle that until some such station is erected.

Mr. CHINDBLOM. As I understand it, there is no private station now at Saint Thomas or in the Virgin Islands?

Capt. BRYANT. That is correct.

Mr. CHINDBLOM. At what other places does that situation exist?

Capt. BRYANT. In Porto Rico there is one private station which works double with a duplicate station in Santo Domingo. It is a sugar plantation and they work across the Mono Passage. That is the only private station in Porto Rico.

Mr. CHINDBLOM. Do they take general commercial and private messages?

Capt. BRYANT. Yes, sir; I think they do handle any of the private messages across there.

Mr. CHINDBLOM. What other places are there where there are no private stations whatever?

Capt. BRYANT. Of course, the Guantanamo station, in our reservation there, that station works direct with Port au Prince in Haiti. There are no private stations in Haiti; we handle all the commercial business between those points, Guantanamo, Port au Prince, and Haiti, by our own naval stations.

Mr. ROWE. In the Virgin Islands there is no other station within 100 nautical miles of that, is there, that is privately owned, that could do this work?

Capt. BRYANT. No, sir.

Mr. ROWE. Of course, you have the authority now to do it there, and is not that true with the one in Porto Rico?

Capt. BRYANT. Yes, sir; it is.

Mr. ROWE. This is just what the law of 1912 has to say, on page 13—I think you have all the authority now under the law of 1912:

And wherever and whenever shore stations open for general public business between the coast and the vessels at sea, under the provisions of the Berlin convention of 1906 and the other conventions and treaties to which the United States may be a party, shall not be so established as to insure a constant service, day and night, without interruption, and in all localities wherever and whenever such service shall not be maintained by the commercial shore station within 100 nautical miles of the naval radio station, the Secretary of the Navy shall, so far as it is consistent with the transaction of the Government's business, open naval radio stations to the general public business described above, and shall fix rates for such service subject to the control of such rates by Congress.

Capt. BRYANT. Yes, sir.

Mr. ROWE. You want that left, don't you?

Capt. BRYANT. Yes, sir.

Mr. ROWE. I do, too. But I do not see that this bill would change that, would it?

Capt. BRYANT. It specifically says in the bill, I think——

Mr. ROWE. If it would, let us fix it so that it would be subject to the provisions of the law of 1912.

Mr. WHITE. This amendment, section 5½, provides that naval stations shall be used and operated under the provisions of the act of August 13, 1912.

Mr. ROWE. You intended that to take care of it?

Mr. WHITE. I had it in mind that the Navy Department, under that language, could do anything that it can lawfully do under the act of 1912; but I am not clear that is in just the proper form.

Capt. BRYANT. The reason I said that is on account of that last sentence on page 3, beginning in line 21.

Mr. CHINDBLOM. What do you refer to, Captain?

Capt. BRYANT. Beginning in line 21, page 3: Stations and apparatus owned elsewhere by the Navy Department or any other department of the Government, shall not be used for the transmission or reception of commercial, press, or other classes of private messages, except that the classes of stations hereinafter named may be used by the Government for the purposes specified; that is to say——

Mr. CHINDBLOM. And then come (a), (b), (c), and (d) on page 4?

Capt. BRYANT. Yes, sir; but the amendment limits those (a), (b), (c), and (d), and changes them quite radically, of course.

Mr. CHINDBLOM. It was your idea that the words which you have read, beginning in line 21, page 3, by implication would repeal the permission granted by the act of 1912 to the Navy Department to operate wireless apparatus where there is no private apparatus as provided in that act?

Capt. BRYANT. At any place except in the Pacific.

Mr. WHITE. I am not so sure but what your criticism is sound and that we may not have taken care of that contingency. We will bear that in mind.

Capt. BRYANT. There is another case, sir, that is very much the same as that—in the Caribbean, where we work between the Canal Zone and the Central American countries; for instance, with the United Fruit Co. stations down there, where it is used principally as a relay point to those countries and there are no private stations.

Mr. ROWE. In the Canal Zone you have the only ones?

Capt. BRYANT. Yes, sir.

Mr. ROWE. You are not within 100 nautical miles there of any other station that could do the work?

Capt. BRYANT. There are no stations within 100 nautical miles that we have not the control of.

Mr. ROWE. So that if that was left out that part of it would be all right?

Capt. BRYANT. Yes, sir; as far as that is concerned.

The CHAIRMAN. You took possession of the United Fruit stations, did you not, during the war?

Capt. BRYANT. Yes, sir; on United States territory.

The CHAIRMAN. And they have not been released?

Capt. BRYANT. No, sir; not yet.

Mr. CHINDBLOM. They would be released under the provisions of this bill, would they not?

Capt. BRYANT. Yes, sir. We are just as anxious for those stations to go back, sir, as they are to get them—as soon as the situation can be taken care of.

The CHAIRMAN. A very simple way to give them the use of them is to release your hold of them, is it not? Is not that so?

Capt. BRYANT. Yes, sir; but we feel if we did a great many companies would not be able to take care of the large amount of commercial business that has to be handled now by naval stations.

The CHAIRMAN. That is, you think the naval work is necessary?

Capt. BRYANT. To tide over the interval until there are other stations.

The CHAIRMAN. To do the business?

Capt. BRYANT. Yes, sir.

The CHAIRMAN. Then you could have released subject to that. You might have done that much—said you would release as soon as private enterprise would supply the deficiency—but you have not even done that.

Capt. BRYANT. I do not think we could do that without legislation to cover it, sir.

Mr. HARDY. Sometimes we immensely hurry up the other fellow and do not keep in a hurry ourselves.

The CHAIRMAN. After you once get hold you cling on like a bulldog does onto the little dog's neck.

Capt. BRYANT. As soon as the commercial companies are ready to take it, we will release it.

Mr. WHITE. There is just one trouble with that situation, in my view—the Navy Department is occupying a field engaged in private business. It states that it is perfectly willing to go out of private business as soon as private companies are in the field capable of meeting the needs; but the practical trouble is the private companies do not like—possibly do not want—to go into a field with the uncertainty which exists, and it was one of the questions in my mind whether you have not got to stop the Navy Department from engaging in private business there in order to get private companies to enter the field—that is, whether the cessation of activity on the part of the Navy has not got to come first, as a sort of condition precedent, to private enterprise going into the field. I may be wrong about that; I do not know.

Mr. HARDY. Do you mean, Mr. White, that the Navy should step out and leave the business interests with no service at all until the private enterprise, after the Navy stepped out, should have established the service?

Mr. WHITE. I think private enterprise would be hurt somewhat, but I think they would get on to the job, and get in there mighty quick; and I had an impression there were enough private stations, or stations which were originally private stations, which could get into operation down in that neighborhood as soon as released by the Navy so as to pretty well meet the situation. I do not know that I am right about that.

Capt. BRYANT. I have a suggestion I think would cover it—I mean to say, as far as our intentions are concerned. For section 5, if you will excuse my making the suggestion——

Mr. WHITE. I want you to make suggestions.

Capt. BRYANT. It might read like this:

> That the Secretary of the Navy is hereby authorized, under regulations and at rates prescribed by him, to use the stations and apparatus owned by the Navy Department for the transmission and reception of any messages between points where radio communication between such points is not conducted by a radio-communication system owned and operated by a bona fide American radio company, and this right to use such stations for the purpose as stated shall cease and terminate whenever, in the judgment of the Secretary of Commerce, privately owned and operated American radio companies are capable of adequately meeting the normal communication requirements between such points: *Provided*, That the rate fixed for the transmission of private commercial messages shall not be less than the rate charges by privately owned stations for like messages other than press messages: *Provided, further*, That the stations and apparatus owned by the Navy Department or any other department of the Government may be used for the transmission and reception of commercial messages between points whenever, in the judgment of the Secretary of Commerce, there is inadequate communication between such points because of breakdown or other causes. Other classes of stations hereinafter named may be operated by the Government for the purposes specified, that is to say—

and then that is the same, practically, as Mr. White's original four classes (a), (b), (c), and (d).

Mr. HARDY. I thought what the captain has suggested was the substance of the bill we have been discussing—to quit using the naval stations whenever and wherever there were private stations.

Mr. CHINDBLOM. Except that the first part of section 5 in the bill, as introduced, relates to the Pacific coast station, and I believe your suggestion is general?

Capt. BRYANT. Yes, sir.

Mr. HARDY. Why should not the law be general?

Mr. ROWE. Yes; perhaps there ought to be a separate section, Mr. White.

Mr. WHITE. We can get it on paper, and then find its place.

Mr. HARDY. What is the reason for making special provision on the Pacific coast?

Mr. WHITE. The original thought was we could get the legislation for the Pacific coast put through promptly; but to undertake legislation with respect to the Pacific and all other parts would develop a controversy which would delay any legislation for a very considerable time. That was the primary purpose.

Mr. HARDY. The captain seems to favor a general provision which would in itself establish the rule under which the naval radio stations could be used.

Mr. WHITE. That is apparently the captain's view, but I am not so certain that others would agree with it.

Mr. HARDY. I thought we would proceed on that basis of doing away with the naval operation where private radio stations could do the work.

The CHAIRMAN. I think we would like to do it, if we could get the hand of the Navy off of it long enough.

Mr. ROWE. That is for us to work out in executive session. I think your suggestion is a splendid one, and it gives us something to study.

Capt. BRYANT. We do not pretend to undertake nor have we any idea of handling the commercial traffic; I mean the long-distance work, in trans-oceanic, etc. The thing that we wanted to handle, of course, was the ship-to-shore work, and we wanted to handle it for our Territories, with which we must be connected up for purposes of national defense.

Mr. WHITE. Have you any other suggestions, Captain?

Capt. BRYANT. These other three—I combine your paragraphs (a), (b), (c), and (d) into three, practically amounting to the same thing, I think. Subparagraph (a) will be:

(a) All land, ship, and airship stations, owned by the Government, may be used for transmitting and for receiving Government messages and press messages, as distinguished from commercial and other messages on wave lengths now in effect, or hereafter to be prescribed by international convention.

Mr. ROWE. That is pretty nearly the same. That would take this act of 1912 in which followed the international convention, did it not?

Capt. BRYANT. Yes, sir. The reason that was changed is because we are subject to international regulation on that, and that would cover the wave lengths that might be used under the international convention. Then subparagraph (b):

(b) All land stations owned by the Government may be used by it for transmitting and receiving commercial messages to and from ships or aircraft on wave lengths now in effect or hereafter to be prescribed by international convention.

And subparagraph (c):

(c) All ship and airship stations owned by the Government on Government-owned ships or airships may be used by it for transmitting and for receiving commercial messages on wave lengths now in effect or hereafter to be prescribed by international convention.

Those three paragraphs we suggest to cover (a), (b), (c), and (d) in Mr. White's bill.

Mr. EDMONDS. I think the captain has a good suggestion there.

Mr. ROWE. You are not far apart.

Mr. CHINDBLOM. Except in subsection B you omit the reference to short waves.

Capt. BRYANT. The reason we did that was because in the reference to short waves you would have to define what was a short wave and what was a long wave.

Mr. WHITE. That is in part why I dropped it out in this amendment I suggested, because I did not know what a short wave was or what a long wave was. I had been told by some radio people that it had a well-defined meaning in the art; but it did not mean much to me, and I concluded it would not mean much to the lawmakers. That is one reason I wanted it to go out.

Mr. HARDY. You could not very well define it.

Mr. WHITE. You could not very well define it.

Capt. BRYANT. The only thing I thought of adding was in regard to section 6. This is in connection with the private companies taking over this commercial traffic that is now being handled by the Navy, the trans-Atlantic and trans-Pacific, and so forth, and other places. It is believed that if the bill was approved on the last day of the month that the privately owned radio stations might be placed in an embarrassing position on account of being unable to satisfactorily commence operations immediately on that date, and I suggest that section 6 might read as follows:

That this act shall take effect at midnight on the last day of the calendar month following the month in which the same is approved: *Provided*, That the commercial transoceanic communication now maintained by the Navy Department shall continue until such time as privately owned and operated American radio companies may be in a position to carry on this communication.

Then we would let go.

The CHAIRMAN. You do not say so?

Mr. ROWE. It does say so in other places in the bill.

Capt. BRYANT. That was our intention at any rate, to fill up the gap from the time that this was passed until the private companies would take up that communication.

Mr. EDMONDS. Why don't you make it 60 days?

Capt. BRYANT. Any time that would be sure.

Mr. ROWE. It is to be on the first day of the month really, is it not?

Capt. BRYANT. It would be best to have it on the first day of the month.

Mr. WHITE. Is there anything further?

Capt. BRYANT. I think you have probably covered this last thing. I thought there might be some misunderstanding relative to the provisions of this bill and the radio act of 1912, and just to clear that up, I might suggest the addition of the following——

Mr. HARDY. Where is that to be inserted?

Capt. BRYANT. It reads:

Such parts of the act to regulate communication, approved August 13, 1912, or any other acts that conflict with the provisions of this act, are hereby repealed.

I think you take care of that.

Mr. WHITE. It was in another provision.

Mr. HARDY. Would that mean anything?

Capt. BRYANT. I do not know, sir.

Mr. HARDY. The general law is that any part of a law already in existence, that is in conflict with the provisions of a law subsequently enacted, is repealed.

Mr. WHITE. But we often do put in that clause.

Mr. CHINDBLOM. In the one case you have a direct repeal and in the other case you have a repeal by implication.

Mr. HARDY. No: I have seen your very distinguished leader, Mr. Mann, and very properly, have more than one clause "all laws in conflict with the provisions of this act" stricken from a bill as surplusage.

Mr. CHINDBLOM. I think it is surplusage.

Mr. HARDY. It just takes up space. Any court of law will say a law we pass now that is in conflict with one now in effect is a repeal of the existing law. But I think if there is a particular clause in the act now in existence that you do not want repealed and that seemed to be repealed by the terms of this law, you might take care of that very properly.

Mr. ROWE. Mr. White's amendment I think takes care of that; does it not?

Capt. BRYANT. I think it does; yes, sir.

Mr. HARDY. I would like to ask Mr. White who is opposed to any general legislation that would specifically give authority or rather prohibit the Navy from doing work where there is a private plant that can do the work?

Mr. ROWE. I do not think there is anybody. I think we are all agreed there is no one opposed to it.

Mr. HARDY. The Navy seems to be agreed, and why go into those particulars about the Pacific coast and the Atlantic coast, instead of making a provision that the Navy's work shall cease where private plants are able to and ready to do the work? I think it ought to be in a general bill.

Mr. ROWE. There is this to be said about it: We heard a good deal of testimony on the Pacific coast and it is a very trying situation on the Pacific coast, and this bill was originally introduced to take care of the situation on the Pacific coast, was it not?

Mr. WHITE. Yes; the idea was to get something through immediately for the Pacific coast, and the idea was if we undertook to overhaul the act of 1912 and to draft general radio legislation, we might be at it interminably, almost. I think the parties are a good deal nearer together to-day than they were six weeks or two months ago.

Mr. HARDY. Or just after the war ended or after the armistice; but it seems to me now the parties are agreed that they want a general law turning back these stations to private owners which have been taken over, and to give up the naval work where there are private stations that can do the work.

Capt. BRYANT. Except the ship-to-shore stations.

Mr. ROWE. Except they want to retain the ship-to-shore business.

Mr. EDMONDS. Is there not an international convention now on or almost due in regard to radio?

Capt. BRYANT. All communications. But that is not going to take up this subject, as I understand it, Mr. Edmonds.

Mr. EDMONDS. I mean if there were a general bill, it might be all upset by the international radio arrangement made next year. When is this new convention to be held?

Capt. BRYANT. We do not know just when the new convention will be held, but I do not believe it will be for at least a year.

Mr. EDMONDS. Then that international convention may agree on a whole lot of new things in regard to radio that are different from what we might put in a general act now.

Capt. BRYANT. Really the need for legislation here is to protect American companies.

Mr. EDMONDS. And this bill does that.

Mr. CHINDBLOM. Aside from the recommendations that you have now made, the Navy Department in a general way is not opposed to this bill, as I understand it?

Capt. BRYANT. Generally speaking, as, I say, with these suggestions——

The CHAIRMAN. If they can have it the way they want it, they will be satisfied. That is the real situation.

Mr. CHINDBLOM. In a general way, except as you have suggested, the Navy Department is satisfied with this bill?

Capt. BRYANT. Yes, sir; as far as I know. Personally, I think that that is acceptable to the Navy Department.

STATEMENT OF MR. EMIL J. SIMON, RADIO ENGINEER, NEW YORK, N. Y.

Mr. WHITE. Are you speaking for yourself, Mr. Simon, or do you represent some one?

Mr. SIMON. Speaking for myself. In preparing my remarks in connection with bill H. R. 11779, I did not have the benefit of the proposed amendments that Mr. White has introduced to-day. I might say, before I make my statement, that I believe these amendments fully cover the objections which I wanted to point out to you, and I also wish to add that I agree with Capt. Bryant that the wording of the sentence starting with line 21, on page 3, should be modified so that the Navy would be permitted to operate its stations for commercial, press, or other classes of private business, in accordance with the act of 1912, which permits the naval stations to do this class of business when private facilities are lacking, and only then.

I had thought it was the purpose of this bill to accomplish but two things: First, to restore without further delay the ownership and operation of all radio stations to a prewar basis, and, second, to adopt appropriate legislation which would at once relieve the great public need now existing on the Pacific coast for additional facilities for handling commercial and press messages to and from the Orient.

As to the first proposition, no argument is required to show the necessity, as well as the justice, of promptly restoring to private ownership and operation all radio stations and I will not take up your time in discussing this feature of the bill. I will only state that I am heartily in favor of it as it stands and consider it thoroughly adequate to meet the situation.

I am also in favor of the second portion of the bill, which attempts to relieve the abnormal situation on the Pacific coast, and I think that the bill as drawn is quite adequate to meet that emergency. I am, however, unalterably opposed to the third part of this bill, beginning with line 21, section 5, on page 3, and continuing to the end of the section. I might add right here that I believe the simplest way to avoid the suggestion of Capt. Bryant, which is very well taken, is to entirely do away with the sentence beginning with line 21 and to incorporate the amendment proposed by Mr. White, namely, those amendments on page 4.

Mr. WHITE. Striking out sections a, b, c, and d and substituting——

Mr. SIMON. Simply A, with a provision in lieu of the provision reading from line 21.

Mr. HARDY. You would have to take part of that section reading from line 21 in order to hang this "A" on to it, would you not?

Mr. SIMON. Oh, yes, of course. I suppose you could stop after "government" and say "may be used."

Mr. HARDY. In what line?

Mr. SIMON. Line 23, and make that read, Judge Hardy: All land, ship and air stations owned by the Government may be used.

Mr. HARDY. Just put that in right after line 21, after the word maintained.

Mr. SIMON. I think that would overcome Capt. Bryant's suggestion.

Mr. HARDY. In other words, you would make that part of section 5, and the concluding part?

Mr. SIMON. Yes.

Mr. WHITE. How would it do to draft something like this, and I am giving this offhand—striking out after the period in line 21, on page 3, and proceeding something in this fashion:

All land, ship and airship stations owned by the Government may be used by it for transmitting and for receiving Government messages and messages relating to the movement and safety of ships and airships and the persons and property thereon, and such stations may be used for the transmission and reception of private commercial messages whenever in the judgment of the Secretary of Commerce privately-owned and operated stations are not capable of adequately meeting the normal communication requirements of the public—

or something of that sort?

Mr. HARDY. Is not that about the same as the act of 1912

Mr. WHITE. Very close to the purpose of the act of 1912.

Mr. SIMON. I do not think it would be necessary to put that in, as the act of 1912, as Mr. Rowe has read to the committee before, in very clear language permits exactly that.

Mr. WHITE. The only trouble with that is if you put in this subsection (a), which I have read, and do not go any further, I should be almost afraid that it might be construed by implication as repealing some portions of the act of 1912, which give this authority

which we want the Navy Department to have. That is the only thing I would be afraid of and the only reason I would suggest for restating it and incorporating it in this bill. That was your idea, anyway.

Mr. SIMON. I was coming to that in a moment, Mr. White, for the reason I will point out, that I do not favor anything, excepting some emergency legislation, to destroy the act of 1912 or any part of the act.

Mr. HARDY. Why not, just after that (a) as framed by the amendment just read, say:

Nothing in this act, however, shall be deemed to repeal any part of the act of 1912?

Mr. WHITE. Or to limit the authority; something of that sort. That is the idea.

Mr. HARDY. Make a comprehensive recognition of that act.

Mr. SIMON. I think that could be very well done in the amendment Mr. White has submitted in section 5½, by putting it right at the end of the paragraph that no part of this act is to be construed to repeal, and so forth.

Mr. WHITE. I think something of that sort will answer. We have the idea, and I think between us we can put it in the proper language.

Mr. SIMON. As I said, I am unalterably opposed to the third part of this bill, beginning with line 21, section 5, on page 3, and continuing to the end of the section. Paragraph (a) would permit the Navy to use its radio stations for transmitting and for receiving Government messages on any wave length, placing it beyond the jurisdiction of the act of 1912. The effect of this would be to enable a Navy station to interfere with and practically destroy the operation of a duly licensed neighboring commercial station by riding rough-shod over its rights. This would be equivalent, for example, to permitting the Navy automobiles to use the public highways at any speed or in any manner they desired, no matter how great the interference with other traffic might be. It really results in placing the Navy stations above the law. Admiral Bullard, in a recent statement before the Senate subcommittee, at page 270, said:

The Government should be regulated just exactly and just as firmly as any company.

Paragraphs (b), (c), and (d) accord to the Navy the right to engage in a general commercial business, thereby enabling it to compete in business matters with its own citizens.

I had thought that this committee had under advisement at this time only the adoption of emergency legislation and that it did not contemplate the enactment of legislation of a general or permanent character. No new radio legislation should be enacted which would open naval radio stations to commercial uses or exempt them from the provisions of the act of 1912 without full and adequate public hearings. Capt. Bryant's proposed amendments (referring to his other amendments; not the ones we just discussed) in my opinion would have the effect of overhauling the act of 1912.

The Senate subcommittee on radio is now considering the enactment of a bill covering the entire radio field and I am given to understand that your committee also will shortly consider a like meas-

ure. I was therefore greatly surprised to learn that your committee proposed to include in this emergency measure the paragraphs to which I have just referred. In effect, it means according to the Navy Department, a monopoly in the transaction of ship to shore business, because private enterprise will not, indeed can not, enter the field in competition with the Navy Department with its immense resources and power.

Congress has consistently, persistently, and has wisely refused to give the Navy Department the authority to do a commercial business, excepting as an emergency measure, and likewise I believe the sentiment is just as strong in Congress to-day as it has ever been against giving the Navy Department a monopoly of the ship-to-shore business, which is a very important part of the radio business.

With the committee's indulgence, I would like to read an extract from the statement recently made by me before the Senate subcommittee on radio.

Mr. CHINDBLOM. Before going into that, may I ask whether the witness believes that the term "incidental commercial messages," as used in subsections (c) and (d) of section 5 have that broad, sweeping effect to which he refers?

Mr. SIMON. I think that power could be very easily abused and would lead to endless controversy if that occurred.

Mr. CHINDBLOM. Still, the use of the word "incidental" there, I think, ought to indicate that it was not the purpose of the bill to grant that general, sweeping power which the witness has objected to.

Mr. SIMON. I agree with you fully; but let us look——

Mr. CHINDBLOM. Then it does not show any intention on the part of the committee to grant such power, does it?

Mr. SIMON. Not on the part of committee, it does not. I did not intend that my statement, as I just made it, should so indicate, as far as this committee was concerned; but if you look at the practical aspect a moment, if this were to be enacted into law, the Navy Department, for example, might do more than that—more than simply the handling of incidental messages—and the commercial company or the Navy would have to go before the Department of Commerce and object; and the Department of Commerce, being a part of the Government, would be put in a delicate position, possibly, in determining whether the private company or the Navy was justified in making the complaint, or not. I recall that before the war several controversies occurred between private companies operating radio stations and the Navy Department. There was interference, and the question was who was right? and the Department of Commerce, having charge of radio laws, was asked to investigate and determine the respective rights; and I believe it found itself in a very awkward position. And it was quite difficult for the Department of Commerce, in certain cases, to actually determine who was right.

Mr. CHINDBLOM. It seemed to me that that statement made by the gentleman indicated a view that the committee was committed to permitting the Navy Department or any other department of the Government to engage in the business of sending commercial messages.

Mr. SIMON. I am convinced that the committee has not that opinion, and I did not intend to imply that in the statement I just made.

Mr. HARDY. I think that the witness is right; that the use of the

word "incidental," referring to commercial business there, is so easily spread out and convenient and desirable and easy of accomplishment. In other words, here is an operator who is busy an hour or two on Government messages; incidentally, he can put in an hour or two on private business, and why not?

Mr. WHITE. I agree that was very unhappy language.

Mr. CHINDBLOM. The chairman of the subcommittee has himself suggested an amendment to it.

Mr. HARDY. With the amendment suggested by this gentleman and Capt. Bryant, also, which is to strike out all these subsections and put in one general provision, which he stated just now, there will not be any need for all that.

Mr. WHITE. Absolutely not. And the amendment which I offered cut that all out, and I think we can coordinate these conflicting views, as these two gentlemen have suggested.

Mr. HARDY. They seem to be, so far as I can understand them, practically together. I think there might be a field for some debate as to how much ship-to-shore business the naval radio station shall be allowed to engage in. We have not discussed much on that; we have sort of assumed that ship-to-shore business might properly be transacted by the Navy. I do not know. I understand this gentleman thinks that the ship-to-shore business ought no more to be under the monopolistic control of the Navy than the transoceanic or any other business.

Mr. SIMON. That is right.

Mr. HARDY. You want it all conducted under the same principle?

Mr. SIMON. Yes, sir.

The CHAIRMAN. They want a chance to live.

Mr. SIMON. I think I will bring that out very fully in my statement, if I may have the indulgence of the committee for a few moments. I want to read, if I may, a few remarks I made before the Senate subcommittee about a month ago.

> I am in doubt as to whether it is the intent of the proposed bill to give to the Navy the exclusive monopoly of the ship-to-shore business. I would be opposed to any such provision, as it would prevent private interests from engaging in such business. It may be true, as stated by the Navy Department, that there is no money to be made in this character of business, but that is no reason to prohibit private interests from erecting coastal stations and engaging in such business if they so desire.
>
> The Navy first demanded exclusive monopoly of all radio operation throughout the country; when it was apparent Congress would refuse to pass such legislation, it then demanded exclusive control and operation of transoceanic and ship-to-shore business, with the right to engage in a general commercial business; when transoceanic was refused they come now and ask that they be given exclusive control and operation of the ship-to-shore business again, with the right to engage in a general commercial business, giving as their reason the fact that as the Navy during the war acquired practically all coastal stations, it would be an unnecessary duplication to allow other stations to be erected by private interests. As a matter of fact, the Navy does not require the use of all its coastal stations in peace times.
>
> Should be Government be permitted to engage in a general commercial business, it stands to reason that Government business will always be given precedence over private business. Those who are familiar with private operations know that the wireless and the cable are used by branches of the Government for unimportant correspondence which the average business house would ordinarily carry on by mail. It is also common practice for unimportant Governemnt messages to be given precedence over urgent commercial

messages. Government operation of facilities of this sort will never take care of the needs of business as private operation does. The men connected with the Government have an official status, which negligence or incompetence seldom disturbs. When any one attempts to make a legitimate complaint of neglect or incompetence on the part of a Government official or employee, his whole department rises up and gives you to understand that the department is carrying on that business and that that department is the Government. Government officials are prone to regard themselves as a class apart from the business public. If the Government is to engage in any commercial work, it would seem proper that the Department of Commerce should control this, as it is more familiar with commercial affairs. The Navy is a military bureau and is not in touch with such affairs. If it is suggested by the Navy Department that it properly should enjoy a monopoly of the ship-to-shore business, because it is better qualified to preserve life and property and to make sea travel safer, I do not think that this position is well taken, and I do not believe that the Navy Department is in any better position to preserve life or property in the use of its coastal stations than the private companies are.

The long list of rescues at sea, in the saving of lives and property by stations of private ownership, makes a long and honorable record, and earns for private individuals the right to develop and make available, to the fullest possible extent, this humanitarian service. It is true that the Marconi Co. has agreed that an exclusive monopoly in the ship-to-shore business should be given to the Navy Department, but, since the Marconi Co. has sold all of its coastal stations in this country to the Navy, the reason for its position in this matter is apparent. It is now interested only in transoceanic operation. Mr. Nally (the vice president of the Marconi Co.) admitted in a statement before the committee that if his company still owned the coastal stations he would be opposed to vesting in the Navy the exclusive control and operation of the ship-to-shore business.

There would be no objections to the Navy Department carrying on a ship-to-shore commercial business in those places where private interests finds that there is not sufficient money in it to render any service to the public, but where private stations desire to operate a ship-to-shore business the Government should not be permitted to compete against its own citizens for that business. Secretary Redfield stated before the House committee that the Department of Commerce would be opposed to allowing the United States Government, as a permanent policy, to engage in competition with private corporations in commercial business between ships at sea and coastal stations in the United States. I am in thorough accord with Secretary Redfield's position in this matter.

Mr. HARDY. Just one question along there: Would you favor having the Government expend its money to establish stations for the purpose of furnishing ship-to-shore service and then just as soon as somebody else established one to blot out and confiscate the property of the Government by refusing to give it any right to transmit commercial messsages?

Mr. SIMON. No. I think, Mr. Hardy, that it is unfortunate that the Navy Department during the war was compelled to purchase so many stations, both coastal and transoceanic. I believe that it had great need for all those stations, or a good many of them, during the war, but I think they should have acquired those stations for the duration of the war, through the war powers of the President, and it was not necessary for them to purchase those stations, and thereby investing such a huge sum of money, which later on, after the war is over, it can only use, to a large extent, in competition with its own citizens.

Mr. HARDY. But if your idea is carried into law, that they shall not be permitted to carry on any ship-to-shore business when there is a private station that will do it, it would practically be destroying the usefulness of the Government stations except for naval messages or war ship messages.

Mr. SIMON. True; and I was just coming to that. I think I will cover that, Judge Hardy, and, if not, you might interrupt me again and I will explain more fully.

And may I ask who it is that is urging this change in the existing law? Certainly not the radio amateur, not the radio engineer, nor the manufacturer, not the inventor, not the commercial companies, nor the Department of Commerce, which is vested with the exclusive control of radio operation throughout the country. Only the Navy Department is clamoring for this change, and, for the reasons just stated, the Marconi Co. naturally indorses this proposal.

It is not now and never has been the policy of this country to permit any department of the Government to engage in business simply because it is equipped to do so. It has been said that private interests will not undertake this business, but it is a matter of common knowledge that private initiative in this country will always step in and render a service whenever there is a demand for it; private enterprise stands ready and willing now to engage in the ship-to-shore business, and if it is not thoroughly adequate to meet the demands made upon it, then section 18 of the act of 1912, to which Mr. Rowe has just referred, authorizes the Navy Department to meet this emergency and to engage in a commercial business. I believe that this takes care of the West Indies situation referred to by Capt. Bryant, and also automatically allows the Navy to continue where private facilities are inadequate or wholly lacking. That is section 18 of the act of 1912.

If it be argued that the Navy, having acquired these shore stations as a result of the war, should now be allowed to use them for commercial purposes, then, to be consistent, the Navy should also be allowed to use its transoceanic stations for commercial purposes. The Navy Department has ten times as much money invested in its transoceanic stations as it has in its shore stations, and if with this immense investment it is not allowed in peace times to do a commercial business, then how much more persuasive are the reasons for refusing to allow the use of its shore stations in a like situation. The shore stations, at least, are needed to give the Navy adequate communication facilities with its war vessels at sea.

It is scarcely a year since this committee, after a full hearing, wisely refused to report favorably a bill allowing the Navy Department to engage commercially in transoceanic business, and, as I have just stated, there is no more reason now to permit them to engage in a ship-to-shore business than there was then to turn over to them the transoceanic business.

I had always believed that it was to the best interests of the country to encourage private initiative and enterprise, instead of which it would seem that of recent years private interests have to be most zealous and vigilant to prevent the enactment of legislation that would hamper, if not actually destroy, business. The American public does not want to have the Government handle its wireless messages any more than it wants the Government to handle its wire messages or to run its railroads. The people have learned that these utilities can best be handled through private agencies. To this traditional and peculiarly American policy may be attributed the undoubted supremacy of our country in commerce and industry to-day.

Did I answer your question, Judge Hardy?

Mr. HARDY. I think you gave your views on it very clearly; but it seems to me that you yourself, by an expression you used, thought the Navy was bound to have those coastal stations for the exchange of messages between its war vessels and shore—had to have them under its own control. And then you insist that whatever be the expense of establishing for the Government these ship-to-shore stations, that they shall not be allowed to help support and sustain the expense of them by any private business at all. In other words, you make a duplication of the service absolutely and hopelessly necessary by making the Government build those ship-to-shore stations for its naval use and then refusing to allow them do any private business. It is a case in which you say the Government is bound to do this work, bound to have those stations, and ought to have them.

The CHAIRMAN. Wait a moment——

Mr. HARDY. That is what he says.

The CHAIRMAN. In the first place, as I understand it, and I think I am correct on it, the Navy Department went to the naval committee and asked for an appropriation to extend its radio service during the war, and, immediately on getting money out of the lump sum that had been appropriated to the Navy Department, they took the money and bought these stations—not at a business price, not at a sensible price, but for a nonsensical price, overwhelmingly overpaying the Marconi Co. and the Federal Co. And I think there ought to be some investigation of this act of the Federal Co. myself; I believe it ought to be fully investigated, because I believe that was not done in a proper manner, but in a very improper manner, not taking into account certain things while the war was on. I think that because they went into this extravagantly we might as well turn the whole Government over to them; they practically had it during the war, and why not continue it forever and let them have the whole business, to continue it as they please and to spend the money as they please and to call for any money they want, and to extend their control, as I understand they desire, over all the stations throughout the country. And I understood yesterday representatives of the Navy Department attended a meeting in Detroit this last week, at which they held out the inducement to the owners of steamship lines on the Lakes that they would furnish them everything they wanted free. Now, that is not competition with private individuals; it is deliberately wiping out private individuals.

Now if there is anything of that kind, I think we have not begun to investigate the radio business, and we had better go further and find out how far the Navy Department, at this meeting or banquet, to which I was invited myself, have gone. I did not attend because I do not happen to hold the purse strings the Navy Department does to travel all over creation, and have no money at my disposal as chairman of this committee. They have gone and made propositions to the Lake Carriers' Association that they are about to establish stations along the northern border, which might be a clear violation of the agreement made over 100 years ago on the day of the month on which my birthday happened to fall. I happened to be born on the same day of the month that that agreement was made over 100 years ago, and they propose to proceed along our northern border perhaps in violation of that agreement between the two nations, although I am not sure about that. But they propose to go ahead and to extend their stations extravagantly, not in a business way or with a business idea, but extravagantly to proceed to dominate the northern border of this country. I think it is a very serious matter and I think I shall demand an investigation into the proposition made there, either by a speech that was made, or in some other manner. I have not all the facts yet, but I think I will get them, as to what they were trying to do.

Now, it is wrong, in my judgment, for the Navy Department to propose to any private interests that they will supply them, without charge, with the facilities that private individuals ought to have a chance to furnish. We should not have had any improvement in the telegraph business and the telephone business and we will have no improvement in the radio business, if the Navy gets its paw on it too heavily; that is, I mean no improvement of any moment. Perhaps I would like to ask Capt. Bryant one question in regard to that matter.

Mr. SIMON. I just wanted to answer Judge Hardy, if I might, Mr. Chairman.

The CHAIRMAN. Go ahead.

Mr. SIMON. I personally believe I would not have brought this up except to answer your question, Judge Hardy, that the Navy has a great many more radio stations on its hands to-day, as a result of the war, than it needs on a peace basis, both transoceanic and ship to shore. As Chairman Green has pointed out, it has a number of stations on the Great Lakes that is acquired in the lump purchase of other shore stations, for which I do not believe it has any need. It also has several transoceanic stations, some actually constructed for military purposes during the war, or before (one, I believe, taken over from the Germans and one on the Pacific coast, or two, from the Federal Co.) and I believe that those stations, Judge Hardy, are superfluous; and that if the Navy is prevented from using those stations for commercial purposes, as I believe they rightfully should be, then they should be directed by Congress to dispose of their surplus stations, at public sale, to private interests.

Mr. HARDY. But I understand you still to say that there are at least a number of stations which the Navy ought to continue to hold; that they are bound to furnish the transportation for naval communication by wireless, but that you want them now to hold those stations, which they are absolutely bound to have, without doing any business that might help support the expense of the Government. In other words, in those places, you would duplicate the service, giving the private monopoly or private owner an exclusive privilege against the Government.

Mr. SIMON. I think, Judge Hardy, that the Navy Department needs only the stations which it had before the war in its navy yards and naval stations and that commercial interests will only erect private stations for communication with ships at sea at the important ports of the United States—for example, Boston, New York, Norfolk, and so forth.

Mr. HARDY. In other words, you think the Government ought to bear the rough ends and privte business take the cream of the wireless ship-to-shore business?

Mr. SIMON. I believe that where private interests did not want to go in——

Mr. HARDY. Where it is a good thing, they will step in and where it is an expensive thing the Government ought to be compelled to step in?

Mr. SIMON. Not compelled; I believe the act of 1912 allows the Secretary of the Navy to open such naval stations for public business where there is no commercial station in the vicinity.

Mr. HARDY. Would not the same analogy apply to the Post Office, that it should serve the needs of the Government in the sparsely settled communities, but ought not to be permitted to carry the mail and should allow private enterprise to carry it in the thickly settled communities?

Mr. ROWE. I think we are getting pretty far afield there.

Mr. SAUNDERS. How many of these stations that you spoke of the Navy owning on the Great Lake, are there?

Mr. SIMON. I counted them up yesterday with Mr. Rowe, and I believe there are 15 that were acquired.

(The committee thereupon adjourned.)

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